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How Industry Money Reaches Physicians

Google Dr. Scott Fishman, chairman and president of the American Pain Foundation, or Dr. Perry Fine, a prominent board member, and it's quickly clear that their ties to the world of pain are legion.

Here (and at right) is a photo of Fishman at a forum with U.S. Surgeon General Regina Benjamin. Here is his book about opioid prescribing that has been distributed to physicians in a couple of dozen states.

Multiple videos feature Fine delivering educational talks about the drugs. He appeared at the 2010 criminal trial of Anna Nicole Smith's boyfriend and two doctors accused of conspiracy in fostering the late celebrity's addiction to drugs. Fine testified that the 1,500 pills a month Smith was given did not make her an addict, according to news reports.

Fishman, chief of pain medicine at the University of California, Davis, and Fine, a professor of anesthesiology at the University of Utah School of Medicine, have authored articles on the foundation's website. They've testified in court cases and before state and

federal committees, and each has been president of the American Academy of Pain Medicine, a doctors' group.

Last year, the pair and a third physician wrote a strongly worded column in The Seattle Times opposing a bill passed by Washington state lawmakers that required doctors and others to consult pain specialists before prescribing high doses of opioids to non-cancer patients. The governor signed it into law nonetheless.

Like the American Pain Foundation, both men have had longstanding ties to the pharmaceutical industry -- direct and indirect. The foundation received 88 percent of its \$5 million income last year from drug and medical-device makers.

This fall, the physicians acknowledged they had failed to disclose all their potential conflicts of interest in a letter to the editor of the Journal of the American Medical Association, which had been published in July. The journal requires all authors, even of letters, to disclose commercial ties.



In his correction, Fine listed 12 more companies for which he consulted, gave legal advice, delivered promotional talks or provided medical education. Among other things, he listed a 5 percent stake in a medical education company whose programs are funded by drugmakers.

Fine also appears to have played a role in launching a painkiller in 2009, ProPublica found. A subsidiary of Johnson & Johnson quoted him in its media release touting its new opioid.

ProPublica also found discrepancies in Fine's disclosures to his employer, the University of Utah. For example, Fine told the university that he had received less than \$5,000 in 2010 from Johnson & Johnson for providing "educational" services. On its website,

however, the company says it paid Fine \$32,017 for consulting, promotional talks, meals and travel that year. (The University requires doctors to disclose all ties to drug companies, even situations in which they are not compensated.)

In an interview, Fine said he tries to be fully transparent about his industry ties. After reviewing his tax records, Fine said in an email, he discovered he had made several errors on his university disclosure and would amend it.

Fine said his relationships with drug companies add to his knowledge about their products. "Does it bias me and cause me to be prejudiced?" he said. "I really don't believe so."

Fine said he is a prominent speaker and teacher on pain because it remains undertreated. "Chronic pain is sort of the modern day leprosy," he said. "It's been sort of hidden away. There are a lot of people affected."

In his initial JAMA disclosure, Fishman said he had written a book about responsible opioid prescribing but received no royalties. In his correction, he acknowledged receiving fees for teaching medical education courses, some of which were funded by drug-company grants.

Over time, Fishman has had relationships with at least eight companies, including OxyContin maker Purdue Pharma, for which he was a consultant, paid speaker and recipient of research support. In an email to ProPublica, Fishman said he had stopped taking money from drug companies in recent years to avoid the perception of a conflict of interest.

He does appear to maintain some ties. Last year, for example, he and Fine appeared in videos on a website sponsored by drugmaker Cephalon to educate patients about the safe use of prescription pain pills. [Fishman's video was removed from the site after this story was published.] Fishman's opioid book, written for the Federation of State Medical Boards, was financed in large part by drug companies. The federation would not provide specific dollar amounts.

Fishman, who is stepping down as chairman of the pain foundation this month, said he often receives honoraria for teaching medical education courses but doesn't discuss them

Fishman also said his position on opioids has evolved. He now believes they are overused, often in cases in which the risks outweigh the benefits. "Opioids represent only a small part of the spectrum on options for mitigating pain, but they carry a disproportionate level of risk," he wrote to ProPublica.

Fine's defense of doctors who prescribe opioids was criticized last year by a top U.S. Drug Enforcement Administration official.

The agency's deputy administrator slammed Fine for his testimony in support of a Utah physician accused of doling out pain medication indiscriminately, several times after sexual activity with a patient.

In revoking the doctor's ability to prescribe narcotics, the official called Fine's testimony "patently disingenuous."

Asked whether it would be outside the standard of practice for a doctor to "go to the home of his patient, have her take off her clothes, digitally penetrate her vagina and then issue her a controlled substance prescription," Fine initially said no, according to a revocation of registration for the accused physician, published in the Federal Register in August 2010.

Although Fine "eventually acknowledged" it was wrong, the administrative law judge in the case said Fine's testimony was "evasive" and "bias[ed]" in favor of assuming the correctness of the actions of any doctor," according to the revocation notice in the Federal Register. The judge found a colleague of Fine's from the University of Utah, who had testified against the accused doctor, to be more believable.

Fine went on to testify at the doctor's criminal trial in federal court in Salt Lake City this year. The doctor was convicted of two counts of distributing a controlled substance resulting in death, as well as 38 other counts.

In an interview, Fine defended his participation in both cases, saying he did not believe the doctor's conduct was criminal. He said the prosecution had to attack him or its case would have fallen apart.

"They had to cast me in a bad light; of course they did," Fine said. "They were too deep into this." As for his colleague who testified for the other side, Fine said, "I believe he's wrong."

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